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OF RACIAL DISCRIMINATION
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Twelfth periodic reports of States parties due in 1992

Addendum

KUWAIT*

[11 January 1993]

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* This report contains the tenth, eleventh and twelfth periodic reports which were due on 5 January 1988, 5 January 1990 and 5 January 1992, respectively. For the eighth and ninth periodic reports submitted by the Government of Kuwait and the summary records of meetings of the Committee at which those reports were considered, see the following documents:

Eighth periodic report - CERD/C/118/Add.3 (CERD/C/SR.687);
Ninth periodic report - CERD/C/149/Add.16 (CERD/C/SR.824).

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INTRODUCTION

1. We refer to note G/SO 237/2(2) dated 20 October 1992 from the Secretary-General of the United Nations addressed to His Excellency the Minister for Foreign Affairs of the State of Kuwait, which points out, inter alia, that the State of Kuwait has not submitted to the Committee established under the International Convention on the Elimination of All Forms of Racial Discrimination its tenth, eleventh and twelfth reports due on 5 January 1988, 5 January 1990 and 5 January 1992 respectively.

2. In his above-mentioned note, the Secretary-General proposed that the aforesaid reports should be incorporated in one document, to be considered as a combined report which sets forth the measures adopted by Kuwait to implement the clauses of the aforementioned Convention, provided that it was sent to the Centre for Human Rights at Geneva before 15 January 1993 for presentation to the Committee. The Secretary-General also suggested that the Government of the State of Kuwait should prepare the framework and content of the report using the amended guidelines, transmitted with his note, which were adopted by the Committee at its twenty-first, twenty-fifth and thirty-fourth sessions.

3. The State of Kuwait therefore wishes on this occasion to present to the esteemed Committee its aforesaid report, which follows hereunder and which it has endeavoured to prepare using the above-mentioned guidelines.

4. The report consists of two parts, the first of which is divided into two sections. The first section comprises a brief outline of the general policy of the State of Kuwait with regard to the elimination of racial discrimination and states its historical, political and legal position on measures to combat racial discrimination. The second section discusses its position regarding the demographic distribution of the population.

5. The second part of the report is devoted to a definition of the position of the State of Kuwait in the light of the legislative, administrative and other measures adopted in compliance with the provisions of articles 2 to 7 of the Convention.

PART I - GENERAL

A. Historical, political and legal position of the State of Kuwait with regard to eliminating the phenomenon of racial discrimination

6. The belief of the State of Kuwait that the phenomenon of racial discrimination in all its forms and types should be eliminated stems chiefly from the fundamental deep-rooted values and traditions that are firmly established at the core of Kuwaiti society which, throughout its long history, has had no experience of any form of racial discrimination. It therefore exemplified such values and traditions before human society made moves to codify them in binding legal forms which guide the conduct of individuals, communities and States. Hence, they continue, as always, to serve as a rule of human conduct which the members of Kuwaiti society were accustomed to practising automatically and instinctively among themselves before any such legislation appeared.

7. The obligation to respect the dignity of the human person, without distinction as to colour or race, and without any form of discrimination between people, has its origins in the behaviour and morals of any civilized human society, and is the approach adopted by Kuwaiti society. As already stated, Kuwait has never experienced any of the forms of racial discrimination whose elimination is called for by the Convention under consideration. In this respect, it should be noted that Kuwait took prompt action to ratify the International Convention on the Elimination of All Forms of Racial Discrimination by way of Act No. 33 of 1968.

8. This in turn confirms that the noble values and traditions which reject racial discrimination are deeply rooted and firmly established at the core of Kuwaiti society, the reason being that such discrimination causes human tragedies and adversities which have afflicted various peoples in numerous parts of the globe.

9. International, regional and other quarters can attest that the State of Kuwait continues to maintain its position of rejecting odious racist practices and that it remains prominent among the countries of the world which advocate their elimination. This noble humanitarian approach is a cornerstone of Kuwait's foreign policy, which is the object of pride and esteem throughout the entire international community. That policy also demonstrates Kuwait's willingness to pursue its efforts, together with the rest of the international community, to eliminate the phenomenon once and for all, thereby achieving the ideal objectives of international cooperation with a view to securing the desired future for mankind where sentiments of goodwill, charity and kindness prevail among people and where hatred and loathing among them no longer exist.

10. On this premise, the State of Kuwait has endeavoured to ensure that its national legislative acts and laws are entirely consistent with those values and principles, and that they genuinely reflect the noble conduct and morals which have been firmly rooted in the Kuwaiti people throughout its long history.

11. On that basis, article 7 of the Constitution of the State of Kuwait stipulates that justice, liberty and equality are the pillars of society. Article 8 stipulates that the State safeguards ... equal opportunities for citizens, while article 29 provides that all people are equal in human dignity, and in public rights and duties before the law, without distinction as to race, origin, language or religion. Article 30 stipulates that personal liberty is guaranteed. Article 31 stipulates:

> "No person shall be arrested, detained, searched or compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place or residence or his liberty of movement be restricted, except in accordance with the provisions of the law. No person shall be subjected to torture or to degrading treatment."

12. Article 35 further stipulates that freedom of belief is absolute and that the State protects freedom of religious observance in accordance with established customs, while article 166 provides that the right of recourse to the courts is guaranteed to all people.

13. In accordance with the noble and deep-rooted Kuwaiti traditions and values which reject all forms of slavery and servitude, article 185 of the Kuwaiti Penal Code, which was promulgated in 1960 (i.e., approximately two years before the Kuwaiti Constitution and one year before Kuwait achieved its independence), stipulates:

> "Anyone who brings a person into or out of Kuwait with intent to dispose of him as a slave, and anyone who purchases or offers a person for sale, or by way of a gift, as a slave shall be punished by imprisonment for a period not exceeding five years and/or a fine not exceeding 5,000 rupees."

14. Similarly, article 202 stipulates:

> "Any man or woman who wholly or partly lives off a person's earnings from prostitution or immoral practices by influencing or controlling him or by enticing him to engage in prostitution, regardless of whether such money is obtained with his consent and without consideration, or in the form of a payment against his protection or non-harassment, shall be punished by imprisonment for a period not exceeding two years and/or a fine not exceeding 2,000 rupees."

15. Article 53 of Act No. 31 of 1970 amending various provisions of the aforementioned Penal Code stipulates:

> "Any public employee or servant who, in person or through a third party, tortures a suspect or a witness or an expert in order to induce him to confess to a crime or to give statements or information concerning a crime shall be punished by a period of imprisonment not exceeding five years and/or a fine not exceeding 500 dinars, or, if the torture gives rise to or is connected with an act punishable by law, by the penalty for that act."

B. Information on the policy of the State of Kuwait with regard to the demographic distribution of the population

16. It should be noted that, throughout its long history, the State of Kuwait, as indicated earlier, has witnessed no discriminatory racial practices among its inhabitants. Throughout history, Kuwaitis have lived as a single homogeneous people bonded by ties of affection, friendship and harmony. This feature of the Kuwaiti people is a universally known fact. The State of Kuwait has therefore never contemplated promulgating legislation or administrative regulations on the demographic distribution of the Kuwaiti people based on distinctions of race or origin, or more precisely, it has never occurred to it to do so. Kuwait is proud to have had no experience of such abhorrent practices; Kuwaitis have freedom of movement and residence in all areas of Kuwait in accordance with the administrative and regulatory controls on residential and other districts. Such controls are not subject to any racial or discriminatory restrictions.

17. The unity, homogeneity and harmony of the Kuwaiti people were highlighted by the various forms of oppression, persecution and terrorism, perpetrated by the tyrannical Iraqi occupation forces, to which it was subjected during the

brutal Iraqi invasion and occupation of its country; the entire Kuwaiti people stood united in the face of that aggression and rallied behind its legitimate leadership, rejecting oppression and occupation. In so doing, it stirred the admiration and pride of the whole international community, which proceeded to help Kuwait, as a people and an entity, in order to rescue it from the claws of the brutal aggression, which was completely driven out to restore to Kuwait its freedom and national sovereignty.

18. At no point in its history has Kuwait ever witnessed any racial discrimination among its people; it is common knowledge that, in view of its God-bestown wealth and blessings, foreigners have been drawn to Kuwait from numerous parts of the world. Accordingly, it is regarded as a host country for migrant labour; its territory was inhabited by citizens from more than 130 countries around the world who, prior to the brutal Iraqi invasion, constituted the majority of the population in Kuwait, which endeavoured to meet all the requirements for their security, safety and stability, as various international and regional organizations can attest. They moved about in all areas of the State of Kuwait in complete safety and were free to choose their places of residence without any State-imposed restrictions on that freedom of movement and residence.

19. In this connection, the State of Kuwait reaffirms that, having regained its freedom, sovereignty and independence, it will continue its former practice of meeting the requirements to ensure that they enjoy security, stability and a decent lifestyle, without any change in its policy and procedures with regard to the treatment of foreigners.

PART II - INFORMATION ON THE LEGISLATIVE AND LEGAL MEASURES TAKEN BY THE STATE OF KUWAIT IN COMPLIANCE WITH THE PROVISIONS OF ARTICLES 2 TO 7 OF THE CONVENTION

20. Based on the guidelines prepared by the Committee which are relevant to this part of the report, the State of Kuwait wishes, in this connection, to state the following information:

Article 2

21. It is clear from a study of the provisions and principles embodied in this article that it essentially highlights not only the general obligation which the States parties to the Convention have undertaken to condemn the practice of racial discrimination but also the measures which they must adopt to implement this general policy in accordance with the provisions of article 2, paragraph 1, (a) to (e), and paragraph 2.

22. In response to the foregoing, it can be said in the light of an examination of the provisions of the article that Kuwait's position towards them can be considered as indicated below:

The first perspective

23. This concerns Kuwait's foreign policy with regard to racial discrimination in the light of an examination of the general provisions of paragraph 1, which calls upon the States parties to condemn racial discrimination and so forth.

24. In accordance with this perspective, and in order to avoid repetition of the discussion contained in part I, section A, of this report, Kuwait has endeavoured to ensure that cooperation with the members of the international community to eliminate racial discrimination is a basic mainstay of its foreign policy. As the documents of international and regional organizations testify, it continues to follow that approach; Kuwait vigorously supported the just struggle waged by peoples suffering under the yoke of occupation, colonialism and racial discrimination with a view to achieving their self-determination and legitimate independence in accordance with the lofty principles advocated in international and humanitarian charters, foremost among which are the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights instruments.

25. On that basis, the State of Kuwait has eagerly acceded to the international conventions aimed at combatting the phenomenon of racial discrimination. Among those to which it has acceded are the International Convention on the Elimination of All Forms of Racial Discrimination, the International Labour Organisation (ILO) Convention of 1932 concerning Forced Labour (No. 29), by way of Act No. 37 of 1968, and the International Convention on the Suppression and Punishment of the Crime of Apartheid, by way of Act No. 5 of 1977.

The second perspective

26. The essential focus here is to highlight the legal and political position of the State of Kuwait concerning implementation of the provisions of article 2 in terms of its domestic policy.

27. In this regard, it should be noted that an examination of the provisions of article 2 and the obligation which they impose on the States parties to the Convention to introduce measures to combat racial discrimination clearly shows that the State of Kuwait, as already discussed in part I, section A, of this report, is committed to applying those obligations and controls in accordance with its Constitution and Penal Code. Kuwait has endeavoured to put these provisions into actual practice, since its policy on the elimination of racial discrimination is clear. Throughout its history, it has never promulgated any national legislation that contravenes the obligations and controls enshrined in this particular article, which it has also endeavoured to implement in the optimum manner in order to guarantee equality between people, without distinction as to race and origin.

Article 3

28. An examination of this article reveals that it imposes a general obligation on the States parties to the Convention to condemn particularly racial segregation and apartheid and to undertake to prevent, prohibit and eradicate all practices of that nature in territories under their jurisdiction.

29. In this connection, Kuwait affirms that at no time in its history has it ever witnessed or experienced any of the practices whose condemnation is called for under this article. It has no experience of the policy of apartheid or racial segregation and remains foremost among those States which condemn such odious policies. This is in addition to the clarification

provided in part I, section B, of this report under the discussion concerning Kuwait's position with regard to policy on the demographic distribution of the population.

Article 4

30. This article calls upon the States parties to condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons ... etc.

31. Paragraphs (a) and (b) impose obligations on the States parties to the Convention to declare an offence punishable by law all dissemination of ideas based on racial superiority ... to declare illegal organizations and propaganda activities which promote racial discrimination. Paragraph (c) stipulates that public authorities and national institutions are not permitted to promote racial discrimination.

32. With regard to the position of Kuwait's legislative acts concerning the obligations imposed by the provisions of the article in question, the present report sets forth a number of constitutional provisions relevant to those obligations, together with other provisions contained in various national legislative acts, as indicated below.

(a) Constitutional provisions

33. It should first be noted that numerous provisions of the Kuwaiti Constitution enshrine the basic principles aimed at achieving justice and equality between people in various economic, social, cultural and other fields, as set forth in articles 7, 8, 9, 10, 13, 16, 18, 19, 20, 22, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48 and 49 thereof.

34. These articles include some which are more closely related to the provisions stipulated in article 4 of the Convention, as follows:

(i) Article 7. Justice and equality are the pillars of society; cooperation and mutual help are the firmest bonds between citizens;

(ii) Article 8. The State safeguards the pillars of society and ensures security, tranquillity and equal opportunities for citizens;

(iii) Article 29. All people are equal in human dignity, and in public rights and duties before the law, without distinction as to race, origin, language or religion;

(iv) Article 30. Personal liberty is guaranteed;

(v) Article 31. No person shall be arrested, detained, searched or compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place of residence or his liberty of movement be restricted, except in accordance with the provisions of the law. No person shall be subjected to torture or degrading treatment;

(vi) Article 35. Freedom of belief is absolute. The State protects freedom of religious observance in accordance with established customs, provided that it does not conflict with public order or morals;

(vii) Article 37. Freedom of the press, printing and publishing shall be guaranteed in accordance with the conditions and manner specified by law;

(viii) Article 43. Freedom to form associations and unions on a national basis and by peaceful means shall be guaranteed in accordance with the conditions and manner specified by law. No one may be compelled to join any association or union.

(b) The position of other Kuwaiti legislative acts concerning implementation of the provisions of article 4

35. In this regard, while the aforementioned constitutional provisions cover the obligations stipulated in article 4 of the Convention, the relevant national legislative acts in Kuwait deal more explicitly with the issue, as follows:

(i) Article 6 of Act No. 24 of 1962 concerning associations of public benefit stipulates that "Associations and clubs shall be forbidden to interfere in politics or religious disputes or to incite factionalism or sectarianism.";

(ii) Article 7 of Act No. 42 of 1978 concerning sporting organizations stipulates that "Sporting organizations shall be forbidden to interfere or become involved in politics or religious disputes or to incite factionalism or sectarianism.";

(iii) Article 73 of Act No. 38 of 1964 concerning employment in the private sector prohibits the involvement of workers' and employers' organizations in religious or sectarian matters;

(iv) Article 27 of the Press and Publications Act No. 3 of 1961 stipulates that "The publication of any material likely to incite the perpetration of crime or arouse hatred or spread discord among the individuals in society shall be prohibited.".

36. In addition to the provisions contained in article 185 of the Kuwaiti Penal Code, which was referred to in part I, section A, article 111 of the Code stipulates as follows:

> "Any person who propagates, by any of the public means specified in article 101, views that ridicule, scorn or belittle a religion or a religious confession by discrediting its beliefs, practices, rites or teachings ... .".

37. In this respect, the State of Kuwait, in discussing the extent to which it has implemented the obligations stipulated in article 4, refers to the basic principles enshrined in its Constitution which call for the achievement of equality and the spread of justice between people, and to the provisions

contained in its other legislative acts which stipulate the rejection of racial discrimination and anything likely to arouse hatred among people, as already stated, in addition to its accession to this Convention, which is regarded as a Kuwaiti national legislative act pursuant to the provisions of article 70 of the Constitution. Accordingly, it wishes to state that all such provisions in themselves offer sufficient evidence and information to confirm the extent of Kuwait's commitment to the provisions of this article.

38. In concluding the examination of the commitment of the State of Kuwait to article 4 of the Convention, it may be useful to state its position concerning the Universal Declaration of Human Rights, which is referred to in the article. In this connection, the State of Kuwait confirms that it immediately welcomed the Universal Declaration of Human Rights on the glorious advent of its independence in 1961 and declared its approval of the content. It then endeavoured to put the lofty principles which it embodies into actual practice in various ways, including the commemoration of International Human Rights Day, the coverage allocated to it by media and cultural programmes, and other forms of celebration in honour of the Declaration.

Article 5

39. An examination of the provisions of this article shows that its essential focus is to set forth a number of specific rights whereby all States parties undertake to guarantee the security of every person in accordance with the principle of equality before the law and without distinction as to race, colour and so forth, all of which is consistent with the general obligations stipulated in article 2 of the Convention.

40. The rights contained in this article include (a) the right to equal treatment before the tribunals; (b) the right to security of persons; (c) political rights; (d) civil rights (of which nine, in particular, are mentioned in subparagraphs (i) to (ix)); (e) economic, social and cultural rights (of which six, in particular, are mentioned in subparagraphs (i) to (vi)), and (f) the right of access to any place or service.

41. In order to demonstrate the legal position of the State of Kuwait concerning each of the aforementioned rights individually, the following should be noted:

(a) The right to equal treatment before the tribunals

42. In this respect, it should be mentioned that this right is embodied in the Kuwaiti Constitution, where it is emphasized as a constitutional right guaranteed to individuals under the Constitution in accordance with the provisions of article 166, which stipulates that the right of recourse to the courts is guaranteed to all people, and that the procedure and manner of exercise of this right shall be prescribed by law.

43. Underlining this right, which is provided for under part IV, chapter V, of the Constitution, the said chapter contains various fundamental principles which ensure that it is guaranteed in the required manner; article 162

stipulates that "The honour of the judiciary and the integrity and impartiality of judges are the bases of rule and a guarantee of rights and liberties."

44. The subsequent article stipulates:

> "In administering justice, judges shall not be subject to any authority. No interference whatsoever shall be allowed with the conduct of justice. The law shall guarantee the independence of the judiciary and shall state the guarantees and provisions relating to judges and the conditions of their irremovability."

45. Article 165 also stipulates that "Sittings of the courts shall be public save in the exceptional cases prescribed by law."

46. In addition to the constitutional provisions contained in the aforesaid chapter, the articles in part III concerning public rights and duties contain a number of constitutional principles which guarantee the rights of individuals before the courts. Examples are the provision of article 31, which stipulates that no person shall be arrested ... etc; article 32, which stipulates that no crime and no penalty ... ; article 33, which stipulates that penalty is personal; and article 34, which stipulates that an accused person is presumed innocent until proved guilty in a legal trial at which the necessary guarantees for the exercise of the right of defence are secured, and that the infliction of physical or mental harm on an accused person is prohibited.

47. In accordance with those constitutional provisions, Kuwait promulgated the legislative acts needed to enforce those rights in the required manner. As such, it endeavoured to ensure that those acts are just and forward-looking and that they respond to actual requirements, thus guaranteeing the optimum conditions needed to secure justice for individuals in the context of the modern State where law prevails and where individual rights and freedoms are safeguarded. These acts include:

(i) The Code of Civil and Commercial Procedure Code promulgated by Decree No. 38 of 1980, as amended. This Code replaced Act No. 6 of 1960 promulgating the Code of Civil and Commercial Procedure, as amended;

(ii) The Code of Criminal and Trial Procedure promulgated by Act No. 17 of 1960, as amended;

(iii) The Organization of the Judiciary Act promulgated by Legislative Decree No. 23 of 1990, which replaced Amiral Decree No. 19 of 1959 concerning the Organization of the Judiciary Act, as amended;

(iv) The Act concerning the establishment of the Constitutional Court promulgated by Act No. 14 of 1973;

(v) The Act concerning the establishment of a division of the high court for the examination of administrative disputes, as amended, promulgated by Legislative Decree No. 20 of 1981.

48. Both the constitutional provisions and the provisions contained in the aforesaid legislative acts guarantee that individuals have rights of recourse to the courts in a manner which ensures that all the requirements for justice are met without distinction, as called for in article 5, subparagraph (a), of the Convention. Moreover, with a view to further promoting those rights, Kuwait gave them additional emphasis by means of the bilateral legal conventions concluded with various States. Among other matters, these conventions guarantee the right of recourse to the courts and stipulate that the citizens of both contracting parties shall, within the boundaries of the other State, enjoy freedom of recourse to the legal authorities in order to claim and defend their rights. They also stipulate, in particular that no personal or real guarantee of any description may be required of those citizens on the ground that they are foreigners or that they have no home or place of residence inside the boundaries of the State concerned.

49. Similar provisions are stipulated in the bilateral legal conventions concluded by the State of Kuwait with various countries of the world, as in: article 3 of its convention with the Arab Republic of Egypt; article 1 of its convention with the Republic of Romania; article 1 of its convention with the Republic of Bulgaria; and article 3 of its convention with the Republic of Tunisia.

50. In this connection, however, it must be affirmed that the principle of achieving equality concerning the right of recourse to the courts is not restricted solely to citizens of the States with which Kuwait has concluded conventions. On the contrary, that right is enjoyed by all Kuwaiti citizens and residents without distinction, regardless of whether or not Kuwait has concluded agreements with their respective States.

51. With regard to the assumption of public office, the Kuwaiti Constitution stipulates that public office is a national service entrusted to those who hold it, and that public officials, in the exercise of their duties, shall serve the public interest.

52. Matters of public office in Kuwait are currently regulated by Civil Service Act No. 15 of 1979 and the Civil Service Regulations.

53. It should be noted that the right to appeal against administrative decisions in accordance with the Act concerning the establishment of the division for the examination of administrative disputes is guaranteed to everyone, as will be shown subsequently.

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution

54. In this connection, it is noteworthy that the texts of Kuwait's Constitution and legislation comprise various legal provisions guaranteeing the enjoyment of this right in the optimum manner, without distinction between individuals.

55. Part III of the Constitution, which deals with public rights and duties, comprises various provisions relating to this right. These include

article 28, which stipulates that no Kuwaiti may be deported from Kuwait or prevented from returning thereto, and article 31, which stipulates:

> "No person shall be arrested, detained, searched or compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place of residence or his freedom of movement be restricted, except in accordance with the provisions of the law. No person shall be subjected to torture or to degrading treatment."

56. They also include article 35, which stipulates: "Freedom of belief is absolute. The State protects the freedom of religious observance in accordance with established customs ..."; article 38, which stipulates: "Homes are inviolable and may not be entered without the permission of their occupants except in the circumstances and manner specified by law"; article 39, which stipulates: "Freedom of communication by post, telegraph and telephone and the confidentiality thereof shall be guaranteed; accordingly, censorship of communications and disclosure of their contents shall not be permitted except in the circumstances and manner specified by law"; and article 42, which stipulates: "There shall be no forced labour except in the cases specified by law for national emergency and with just remuneration." Article 44 stipulates:

> "Individuals shall have the right of private assembly without permission or prior notification, and the police may not attend such private meetings. Public meetings, processions and gatherings shall be permitted in accordance with the conditions and manner specified by law, provided that their purpose and means are peaceful and not contrary to morals."

57. Article 46 stipulates that extradition of political refugees is prohibited, and article 49 that observance of public order and respect for public morals are a duty incumbent upon all inhabitants of Kuwait.

58. In addition to the aforementioned constitutional texts relevant to article 5, subparagraph (b), Kuwaiti laws comprise a number of provisions guaranteeing implementation of those constitutional texts. The Code of Criminal Procedure, for example, contains provisions which guarantee enjoyment of the maximum guarantees of justice when measures are being taken against an accused person, in addition to the guarantees provided for in the Kuwaiti Penal Code, with specific reference to articles 121, 122, 123 and 125 thereof.

59. Article 121 stipulates:

> "Any public official who uses the authority of his office merely to damage an individual shall be punished by a period of imprisonment not exceeding three years and a fine not exceeding 3,000 rupees ... .
>
> "Any public official who deals harshly with people while discharging the duties of his office or who compels people to undertake work in conditions where the law does not so permit, shall be punished by a period of imprisonment not exceeding one year and/or a fine not exceeding 1,000 rupees.

"Any public official who enters a person's home without his consent in circumstances other than those specified in law, or without observing the procedures prescribed therein, shall be punished by a period of imprisonment not exceeding three years and/or a fine not exceeding 3,000 rupees.

"Any public official who, as part of the duties of his office, is authorized to provide a certificate or information which is likely to affect the rights of individuals, and who with ill intent makes statements contrary to the truth, shall be punished by a period of imprisonment not exceeding three years and/or a fine not exceeding 3,000 rupees, if his action causes damage.

"Any public official who uses the authority of his office to coerce a person to sell or dispose of his property or to relinquish his right thereto, whether in the interest of the official himself or in that of a third party, shall be punished by a period of imprisonment not exceeding three years and/or a fine not exceeding 3,000 rupees."

(c) Political rights, in particular the right to participate in elections

60. It should be noted that Act No. 35 of 1962 concerning elections to the National Assembly was promulgated in accordance with the constitutional provision contained in article 6, which stipulates: "The system of government in Kuwait shall be democratic, under which sovereignty resides in the people, the source of all powers.". Various amendments have since been made to the Act, most recently in 1986.

61. On the basis of that Act, National Assembly elections have been held in Kuwait, the most recent being those held in October of last year, which were commended by all international, regional and other quarters for their integrity and fairness.

(d) Determining the position of the State of Kuwait concerning the other civil rights provided for in subparagraph (d) of this article, where they are specified in nine subparagraphs

62. In discussing the position of the State of Kuwait concerning application of the rights specified in the aforesaid paragraph, this report will notably clarify Kuwait's position concerning some of the rights in question. With a view to avoiding repetition, the coverage given to some of those rights in an earlier part of this report is regarded as sufficient.

63. Hence, concerning the reply to the content of subparagraph (d), it will restrict itself to the following points:

Subparagraph (d) (iii) - the right to nationality;

Subparagraph (d) (iv) - the right to marriage and choice of spouse;

Subparagraph (d) (v) - the right to own property alone as well as in association with others;

Subparagraph (d) (vi) - the right to inherit.

(d) (iii) The right to nationality

64. The provision regarding this right in the body of the Kuwaiti Constitution is contained in article 27, which stipulates: "Kuwaiti nationality shall be defined by law. No deprivation or withdrawal of nationality may be effected except within the limits prescribed by law."

65. In this respect, it should be noted that, in 1959, some two years prior to the promulgation of the Kuwaiti Constitution, Amiral Decree No. 15 of 1959 promulgated the Kuwaiti Nationality Act, which is the law in force on Kuwaiti nationality. It has been amended several times since that date, the aim being to regulate the situations pertaining to Kuwaiti nationality and the procedures for acquiring it.

(d) (iv) The right to marriage and choice of spouse

66. It is well known that the Kuwaiti Constitution accords particular importance to the family. Article 9 stipulates: "The family is the cornerstone of Society. It is founded on religion, morality and patriotism. Law shall preserve the integrity of the family, strengthen its ties and protect mothers and children.".

67. In this regard, while discussing the right to marriage and choice of spouse, it is also well known that marriage, divorce and other matters relating to personal status are regulated by Kuwaiti law in accordance with the Personal Status Act No. 51 of 1984. The provisions of the Act are derived from the precepts and principles of the tolerant Islamic Shariah, which is known to be regarded incontrovertibly as one of the finest codes of law regulating matters of personal status.

68. In addition to the provisions on marriage in the Kuwaiti Personal Status Act, Act No. 5 of 1961 regulating legal relations involving a foreign element was promulgated in Kuwait in 1961. Articles 33 to 49, section 1, of the Act contain numerous provisions concerning marriage to foreigners and the law to be applied in such situations.

(d) (v) The right to own property alone as well as in association with others

69. It should be noted in this respect that this is a matter to which the Kuwaiti Constitution accords particular importance. Article 16 stipulates: "Ownership, capital and work are fundamental constituents of the social structure of the State and of the national wealth. They are all individual rights with a social function regulated by law.".

70. Article 18 stipulates:

> "Private property is inviolable. No one shall be prevented from disposing of his property except within the limits of the law. No property shall be expropriated except for the public benefit in the circumstances and manner specified by law, and on condition that fair compensation is paid.".

71. At the present time, the right to own property in Kuwait is basically regulated by the Kuwaiti Civil Code, promulgated in Act No. 67 of 1980.

72. In addition to the foregoing, it should be noted in this respect that chapter III, articles 217 to 282, of the Kuwaiti Penal Code are devoted to a definition of crimes against property, which include theft, fraud, breach of trust, destruction, pillage and violation of the sanctity of property.

73. The articles of the aforesaid chapter specify the penalties applicable to a person who commits an act designated as a crime in the said chapter.

(d) (vi) The right to inherit

74. The final paragraph of article 18 of the Kuwaiti Constitution stipulates that "Inheritance is a right governed by the Islamic Shariah." The provisions on inheritance in Kuwait are regulated by section 3 of the Personal Status Act referred to in this report, which has its origins in the precepts of the noble Islamic Shariah, without prejudice to the provisions contained in the Act regulating relations involving a foreign element applicable in this respect to foreigners. Article 47 of the Act stipulates that inheritance is governed by the law to which the deceased person was subject at the time of his death.

(e) Economic, social and cultural rights

75. In discussing the position of Kuwaiti law concerning the above-mentioned rights, of which there are six specified in the aforesaid paragraph, namely (i) the right to work, to free choice of employment, ...; (ii) the right to form and join trade unions; (iii) the right to housing; (iv) the right to public health, medical care, ...; (v) the right to education and training; and (vi) the right to equal participation in cultural activities, it should be noted that Kuwaiti laws guarantee the full enjoyment of such rights as follows.

The right to work and to form trade unions

76. In this respect, article 22 of the Kuwaiti Constitution stipulates: "Relations between employers and employees ... shall be regulated by law on economic principles, due regard being paid to the rules of social justice".

77. Article 41 stipulates: "Every Kuwaiti has the right to work and to choose the type of his work. Work is a duty of every citizen and is necessitated by personal dignity and the public good. The State shall endeavour to make it available to citizens and to make its terms equitable.".

78. Article 42 stipulates: "There shall be no forced labour except in the circumstances designated by law as national emergencies and with just remuneration.". Such is the position of the constitutional provisions on the right to work.

79. With regard to the position of those provisions on the right to form trade unions, article 43 stipulates: "Freedom to form associations and unions on a national basis and by peaceful means shall be guaranteed in accordance with the conditions and manner specified by law. No one may be compelled to join any association or union.".

80. Legislative acts have been promulgated in Kuwait to regulate labour affairs and labour unions, including Act No. 38 of 1964 concerning employment in the private sector, as amended.

81. The labour laws show great care and concern for both national and foreign manpower, to which they guarantee full protection. This is merely an extension of Kuwait's policy regarding the establishment of a society in which justice and social welfare prevail.

82. With regard to the proportion of foreign manpower, figures extracted from the general population censuses show that, in 1965, the total workforce numbered 184,297 individuals, 71 per cent of whom were non-Kuwaitis. In 1970, this number rose to 242,197 individuals, 73 per cent of whom were non-Kuwaitis. In 1975, the number grew to 304,582 individuals, of whom the proportion of foreigners was 66.8 per cent. In 1980, the total number was 487,880 individuals, 77.6 per cent of whom were foreigners.

83. As already stated earlier in this report, the brutal Iraqi invasion of the State of Kuwait inflicted serious damage on the foreign workers employed in Kuwait; it led to their expulsion and the loss of their rights and caused them to suffer human tragedies and adversities. International organizations also adopted various resolutions condemning the misfortunes suffered by those workers as a result of the invasion.

84. With regard to labour unions, chapter XIII of the aforesaid Labour Act guarantees the formation among the working class of trade unions to safeguard their interests and defend their rights. The articles of this chapter explain the manner in which trade unions are to be formed and the procedures to be followed in the case of both nationals and foreigners.

85. In accordance with the provisions of this clause, several labour unions have been formed, such as the General Confederation of Kuwaiti Workers the Union of Workers in the Private Sector, the General Union of Bank Workers and Employees, the Union of Workers in the Kuwait Airways Corporation, the Union of Workers and Employees at the Ministry of Electricity and Water, the Kuwait Oil Company Union and the Petrochemical Industry Union.

The right to housing

86. The Kuwaiti Constitution accords due importance to the right to housing. Article 18 stipulates: "Private property is inviolable. No one shall be prevented from disposing of his property except within the limits of the law. No property shall be expropriated except for the public benefit ..., and on condition that fair compensation is paid.".

87. Article 22 stipulates that "Relations between ... and between landlords and tenants shall be regulated by law on economic principles, due regard being paid to the rules of social justice.".

88. Similarly, article 38 comprises a constitutional principle concerning the inviolability of homes, which is provided for in the Penal Code.

89. The State has ensured that the provision of housing assistance for its citizens, without distinction between them, is a basic concern which it

endeavours to act on in the optimum manner in order to provide them with a decent lifestyle; to that end, the Public Housing Authority was established under the terms of Act No. 15 of 1974. There is also a ministry concerned with housing and another authority which is responsible for granting housing loans to citizens, namely the Credit and Savings Bank.

90. One of the housing services which the State currently provides for its citizens is the offer of residential plots for house-building, in addition to real estate loans amounting to 54,000 Kuwaiti dinars. The State itself also builds houses for citizens.

The right to public health, medical care, social security and social services

91. The Kuwaiti Constitution accords maximum importance to the services related to this right and has ensured that they are a fundamental constituent of Kuwaiti society.

92. With regard to public health and medical care, article 15 of the Constitution stipulates that "The State cares for public health and for means of prevention and treatment of diseases and epidemics." Article 10 stipulates that "The State cares for the young and protects them from exploitation and from moral, physical and spiritual neglect.".

93. The State has promulgated various pieces of health legislation which, as a whole, aim to meet the maximum health care requirements for Kuwaiti citizens and residents alike. Examples are Acts Nos. 23, 24, 25, 26, 27, 29 and 33 of 1960 concerning respectively the practice of the professions of human medicine and density, the practice of the profession of obstetrics, the practice of the profession of pharmacology, the control of narcotic drugs, the regulation of the registration of births and deaths, the health precautions to prevent contagious diseases, procedures for monitoring health of persons entering Kuwait from areas stricken with certain contagious diseases, and other acts and ministerial decisions promulgated pursuant thereto which have enabled Kuwait to provide the best facilities for health care.

94. In reviewing Kuwait's health legislation, it should be mentioned that the State has recently promulgated a legislative act concerning measures to combat acquired immunodeficiency syndrome (AIDS).

95. One aspect of the State's concern for health care is the fact that the various health services provided by the State are all free, both to its citizens and to others, in which respect it is well-known that Kuwait has taken the lead ahead of many other States.

96. With regard to social security and services, article 11 of the Constitution stipulates: "The State ensures aid for citizens in old age, sickness or inability to work. It also provides them with social insurance, social assistance and healthcare services.".

97. In accordance with this provision, the State has established numerous bodies and institutions which are concerned with old age and illness. The Civil Code also contains provisions relating to compensation for inability to work, while the competent State authorities in the form of the Ministry of

Social Affairs and Labour provide social assistance for citizens whose social circumstances so require. This is not confined to offering them material assistance; it also extends to the provision of other services. Kuwait has established homes for the social care of the elderly, the incapacitated, the disabled and others whose circumstances necessitate rest and care.

98. The foregoing provides a brief review of the aspects of the State's concern for public health, medical care and social services. The State has not neglected social security; based on the provisions of article 11 of the Kuwaiti Constitution, in 1976 Kuwait promulgated Act No. 61 on social insurance, as a result of which the General Organization for Social Insurance was established. The Kuwaiti Social Insurance Act is one of the most advanced social insurance instruments in the world.

The right to education and training

99. It should be noted that the Kuwaiti Constitution accords maximum importance to education in Kuwait and has ensured that it is a key pillar of Kuwaiti society. Article 13 stipulates: "Education is a fundamental requisite for social progress and, as such, is assured and promoted by the State.".

100. Education in Kuwait is free at all levels. The State has also endeavoured to provide education in accordance with the highest modern scientific standards and has promulgated various legislative acts on education, including Act No. 111 concerning compulsory education, Act No. 29 of 1966 concerning the organization of higher education, Act No. 4 of 1981 concerning the eradication of illiteracy and other education-related acts which aim to improve education facilities with a view to realizing the aims sought by the Kuwaiti Constitution.

101. The State has also shown concern for the training facility in parallel to that of education, and has promulgated various legislative acts on the subject, the most important being Act No. 63 of 1983 concerning the establishment of the Public Authority for Applied Education and Training.

102. It is perhaps useful at this point to mention that Kuwait offers educational and training services to everyone on an equal basis, without any distinction between nationals and non-nationals.

The right to equal participation in cultural activities

103. It should be noted that the Kuwaiti Constitution accords due importance to such activities and has endeavoured to ensure that they are a basic mainstay of Kuwaiti society. Article 14 stipulates that: "The State shall promote science, literature and the arts and shall encourage scientific research.".

104. One aspect of the State's interest in cultural activities is that it has established several cultural and scientific institutions which are involved in such activities with a view to achieving the desired aims.

105. Examples are the National Council for Culture, the Arts and Literature, established under the terms of a decree promulgated in 1973, the Kuwait

Foundation for Scientific Advancement, established under the terms of a decree promulgated in 1972, and the Kuwait Institute for Scientific Research, established by decree in 1970.

106. It should be noted that the services provided by the cultural and scientific institutions in Kuwait are available to everyone, without distinction or exception.

(f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks

107. In discussing this right, the State of Kuwait wishes to affirm in the present report that it is guaranteed for everyone, without distinction between nationals and foreigners. No discriminatory legislative acts have been promulgated in this respect; any controls which do apply are intended to regulate the use of a number of aspects of this right in accordance with public morals and Kuwaiti and Islamic traditions. Some facilities set aside certain areas for families, single persons, women and men respectively. These are regulatory controls required by the rules of the observed customs and Kuwaiti and Islamic traditions. They are in no way based on discrimination.

Article 6

108. This article deals with the manner in which the national courts in each State party are applying the Convention.

109. With regard to the position of the Kuwaiti courts, the provisions contained in this article can be considered in two parts. The first part relates to the right of recourse to the courts, while the second relates to the position of the Kuwaiti courts.

110. A detailed reply was given to the first part earlier in this report in the discussion on the guarantee provided by the Kuwaiti legislature regarding the right of recourse to the courts.

111. The reply to the second part is illustrated by the absence of any legal precedents in Kuwait, since no cases have been brought before the Kuwaiti courts by Kuwaiti citizens or foreign residents in Kuwait claiming to have suffered from any form of racial discrimination defined in the Convention.

112. Aspects of the application of the provisions of the aforesaid article by the Kuwaiti courts are as follows:

(a) Kuwait's accession to this Convention and other related conventions, such as the ILO Convention concerning Forced Labour of 1932 (No. 29) and the International Convention on the Suppression and Punishment of the Crime of Apartheid. Kuwait has ratified these conventions which, in law, are regarded as part of Kuwait's national legislation in accordance with article 70 of the Constitution. The Kuwaiti courts would therefore apply the provisions of the said conventions should any of their stipulations be violated;

(b) The authority of the Constitutional Court which, in accordance with the Act under which it was established, has sole jurisdiction to interpret constitutional texts, legislative decrees and regulations and to hear appeals against the election or eligibility to serve of National Assembly members. Its rulings are binding on all the courts;

(c) Any one, regardless of his nationality, has a right to appeal against administrative decisions before the high court division competent to hear administrative disputes. It is clear from the foregoing that the State of Kuwait is committed to implementing the provisions of this article.

Article 7

113. This article contains the general commitments whereby the States parties to the Convention "undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance ... .".

114. With regard to the extent of Kuwait's commitment to the implementation of this article, in the light of the measures which it has adopted, it can be said very briefly that, in various instances, this report has replied in some detail concerning the provisions contained in this article. In order to avoid repetition, reference can therefore be made to the previous parts of this report.

Conclusion

115. It can be said in the light of the content of this report that the State of Kuwait has endeavoured, by producing this detailed report, which differs somewhat in form and content from the previous reports that it has prepared in this respect, to present to the Committee established under the International Convention on the Elimination of All Forms of Racial Discrimination all the substantive and legal facts concerning the implementation of the Convention, which it has indeed endeavoured to implement scrupulously in fulfilment of its national and international obligations.

116. Kuwait hopes that it has successfully set out those facts in this report as required, and wishes to affirm at the same time that it is ready to reply to any comments or questions raised by the distinguished Committee during its discussion of the report.

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